

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On February 13, 2003, the regular meeting of the Marin Local Agency Formation Commission was held at the San Rafael Council Chambers, 1400 Fifth Avenue, San Rafael. Chairperson Blanchfield called the meeting to order at 7:05 p.m.

ROLL CALL

Commissioners Present: Jeffry Blanchfield
Judy Chapman
Barbara Heller
Dennis J. Rodoni
Annette Rose
Jeffrey Slavitz

Absent: Susan Adams

Alternate Commissioners

Present but not seated: Pat Eklund

Staff present: Peter Banning, Executive Officer
David Zaltsman, LAFCO Legal Counsel
Dory (Adams) Miller, Clerk to the Commission

1. **Public Comment** - None

NOTICE OF APPLICATION (Information Only)

2. New application(s) were received for the following proposals:

Annexation of the Lands of Shooshtarian to Novato Sanitary District (File #1242)

CONSENT CALENDAR ITEM(S)

3. **Regular Meeting Minutes, November 7, 2002**
4. **Regular Meeting Minutes, December 12, 2002**
5. **Financial Reports - December 2002 & January 2003**
6. **Annexation of the Lands of Hodge to Novato Sanitary District (File #1240)**
7. **Annexation of the Reclamation Lands of Las Gallinas Valley Sanitary District to Las Gallinas Valley Sanitary District (File #1216)**

At the December 12th meeting, the Commission did not have a quorum to approve the minutes of the November 7th meeting. Chairperson Blanchfield stated that, since a quorum would not be possible to approve those minutes due to changes in Commission membership, LAFCO staff had contacted Legal Counsel and was advised that action could be taken to accept the minutes by the three members present who attended November 7th.

M/S Heller - Chapman to consent with the understanding that the three members who attended the meeting on November 7, 2002 accept the minutes from that meeting. Commissioners Blanchfield and Rose abstained from the December 12, 2002 minutes.

Approved unanimously.

PUBLIC HEARING(S)

8. Formation of County Service Area #32 - Strawberry Point (File #1228)

The Executive Officer summarized the staff report and recommendation. At its regular meeting on December 12, 2002, the Commission opened the public hearing on the proposed formation of County Service Area #32 - Strawberry Point. The County's proposal was to form a county service area at Strawberry Point as a means of continuing the landscape maintenance service of an existing lighting and landscape district through a more workable and efficient method. The financing of the present landscape and lighting district's benefit assessment required an expensive engineer's report and public hearing process which would absorb most of the district's annual revenue. The special tax that would be collected by the CSA would not incur these costs. The formation of the CSA would still require a protest hearing at the Board of Supervisors and an election at County expense where two-thirds of approval would be required. The item was continued to the next regular meeting in order to provide an opportunity for interested residents of the affected area at Strawberry Point to meet with County staff to discuss details of the proposal and address questions.

The Executive Officer stated that, if the Commission denied the proposal, the County would dissolve the lighting and landscape district and would terminate the landscape maintenance service. The Commission had received correspondence both in support and opposition to the proposal. Opposition to the proposal were based on assertions of unequal benefit of the service to different properties within the proposed boundaries, the County's involvement being unwelcome, the divisiveness of issues among the neighbors, and how service would be managed under the CSA. Four

property owners had also requested that the Commission act to amend the boundaries of the proposed CSA to exclude their properties for similar reasons.

Staff's recommendation was for the Commission to approve the proposal and allow it to advance to consideration by the Board of Supervisors and the voters in Strawberry Point. The proposal would essentially update and improve the functioning of an existing service. Denial of the proposal would preempt the choice of local residents who might value that service and would choose to vote for it at an election. Also, staff recommended that the Commission refrain from amending the boundary to exclude properties owned by those opposed to the formation of the CSA. To do so would effectively make participation in the CSA voluntary which would result in random boundaries, increased costs, reduced revenue accruing to the district and clear inequities in the future distribution of service and financial responsibility.

Commissioner Heller questioned whether the confusion on the number of parcels could be clarified before the time of an election. Steve Petterle, Principal Park Planner for Marin County Parks and Open Space, responded that the number of parcels did have an error in their original determination. A recount set the actual number as 105 parcels, which included the Starboard Court area and four parcels adjacent to Great Circle Drive past Starboard Court. These parcels were not originally included in the existing landscape and lighting district (L&LD).

Commissioner Chapman asked what the cost of an election would be. Mr. Petterle said the estimate was \$5,000 - \$10,000 and that the election would be by mail ballot rather than ballot at the polls.

Commissioner Rose asked if LAFCO were to make a determination to proceed and send the proposal to the Board of Supervisors, what would be the legal requirement for the length of time between the LAFCO hearing and when the Board of Supervisors would hear the issue? The Executive Officer stated LAFCO procedures required 30 days to be allowed for requests for reconsideration before the proposal could move forward. Following that, the Board of Supervisors would be required to allow a 21-day notice before proceeding to the hearing.

Commissioner Rose questioned the current funding and the differences between voting of the property owners within the L&LD versus the voting within a county service area. Mr. Petterle stated current annual revenue was approximately \$16,000. The L&LD did not have a formal election process, but rather received recommendations from local representatives about service priorities. An actual vote had never been taken on any issue. A CSA would require a more formal vote held for registered voters. Commissioner Rose noted that the formation would result in a change from a system where essentially no votes were taken to a more formal system. This system would include appointment by the Board of Supervisors of an advisory committee of property

owners. The advisory committee would be required to function under requirements of the Brown Act and have regular, noticed meetings. Mr. Petterle responded to a Commission question that, in his experience with CSAs, he had not seen advice from any advisory committee overturned by the Board of Supervisors.

Chairperson Blanchfield opened the public hearing on the proposal. There was no public comment.

M/S Slavitz - Heller to close the public hearing.

Approved unanimously.

Commissioner Rose referenced a letter from property owner Bruce Corcoran which stated that some services of the L&LD had been provided to private backyards. Mr. Petterle responded that no landscaping was being done on private property and that all services were provided within the street right-of-way.

Commissioner Rodoni wished to note for the record that the Commission had received several letters about the formation which had been considered and that there would be many future opportunities for public comment on the proposal.

Chairperson Blanchfield stated he had attended the informational session on January 14th. It was very informative and fulfilled LAFCO's intent to bring parties together to better understand the issues. He had also attended a meeting of the Strawberry Point Homeowners' Association where Ron Paolini of Marin County Parks and Open Space had explained the proposal in detail.

M/S Slavitz - Rose to approve the staff recommendation including approval of Resolutions 03-03 and 03-04.

Approved unanimously.

9. **Formation of County Service Area #33 - Stinson Beach (File #1227)**

The Executive Officer summarized the staff report and recommendation. The County Department of Parks and Open Space had maintained the Stinson Beach Village Green Park at the corner of Highway 1 and Calle Del Mar through a benefit assessment levied within the boundaries of the Stinson Beach Landscape and Lighting District. The impetus for the acquisition and development of the park was initially a private, local effort with the park being dedicated to the County for maintenance after the fact. The park was well visited and the County's maintenance of the facility appeared to be without controversy.

The Executive Officer reported that the County had concluded that the fiscal procedures for the collection of an annual fee under a lighting and landscape district required a benefit analysis report by a qualified engineer and a public hearing on an annual basis, incurring a cost in excess of 50% of the district's annual budget. The County had proposed the formation of a county service area (CSA) to continue to levy a simple, annual per-parcel special tax which would not incur these costs. The County's proposal would facilitate the continuation of the existing service with no change to the level of service, the cost of the services or area to which the service was provided. The formation of the CSA and its special tax would require a protest hearing at the Board of Supervisors and an election at County expense where two-thirds of approval would be required.

Commissioner Heller asked if the LAFCO office had received public comment on the proposal. The only public comment received had been one letter in support of the proposal.

Commissioner Rodoni asked if the adjacent area which was being developed into a park would become part of the proposed CSA. Steve Petterle, Principal Park Planner for Marin County Parks and Open Space, responded that it would.

Chairperson Blanchfield opened the public hearing on the proposal. There was no public comment.

M/S Chapman - Rodoni to close the public hearing.

Approved unanimously.

M/S Rodoni - Chapman to approve the staff recommendation including approval of Resolutions 03-07 and 03-08.

Approved unanimously.

AGENDA ITEM(S)

The Executive Officer asked to present the staff reports and recommendations for agenda items 10 and 11 together since they were interrelated.

10. **Annexation of the Lands of Keran to Tiburon Sanitary District (File #1233)**
11. **Annexation of the Lands of Kopstein to Tiburon Sanitary District (File #1235)**

The Executive Officer summarized the staff reports and recommendations. Both proposals were for annexation to the Tiburon Sanitary District and were similar to a series of annexations that the Commission had approved in the past few months. If approved, these properties would be connected to the sewer main extension that was built to serve the Lands of Shaw, approved by the Commission a year earlier. That line led to the District's small treatment at Playa Verde. A change since the approval of the similar proposals was that the Tiburon Sanitary District believed the treatment capacity of the Playa Verde plant had been exhausted. The District was concerned other properties already within the District's boundary and ready to connect should be allowed to hook to sewer before other areas were annexed. The District had undertaken steps toward necessary studies to measure the capacity and flows in the treatment plant, but the studies were not completed.

The Executive Officer reported that the Keran proposal requested annexation of three residences and the Kopstein proposal was for two residences. The septic system at the Kopstein residence had failed and effluent was leaking onto a neighbor's parcel. The Sanitary District Board held a special meeting in January to determine a course of action, which was attended by LAFCO staff. The Board adopted a resolution requesting LAFCO to deny both proposals. In order to address the health and safety issues of the Kopstein parcel, the Board also requested that LAFCO consider and approve an outside service agreement for the Kopstein residence only. The agreement would provide a one-year period in which the District would determine the remaining extent of its ability to provide service through the Playa Verde plant or during which the Kopsteins might choose to install a new on-site system.

Staff supported the requests of the District. The staff recommendation was to deny the annexation proposals of both the Lands of Keran and the Lands of Kopstein without prejudice, thereby allowing the applicants to reapply for annexation to the District within a one-year period if the District had capacity to provide the service. Staff also recommended that the Commission approve the Tiburon Sanitary District's application for an outside service agreement to the Kopstein property. Staff suggested that the Commission review its adopted fee schedule to allow reduction or waiver of fees at the time that the applicants reapplied.

Commissioner Heller asked when the capacity study would be completed and if the outside service agreement could be extended if the study took longer than anticipated. The Executive Officer stated that the agreement between the Kopsteins and the District included language for a one-year term which could be extended by the District.

Chairperson Blanchfield opened the public hearing. No public comment was received.

M/S Chapman – Rose to close the public hearing.

Approved unanimously.

Commissioner Chapman asked if the studies being conducted were only to determine capacity of the plant or if it included the possibility of increasing the size of the plant. Fred Hannahs, President of Tiburon Sanitary District, responded that several alternatives had been considered, beginning in 1994. One plan was to convert the Playa Verde plant to a pump station to pump along Paradise Drive to the District's main plant. Another alternative was to pump over the ridge to the main plant. He stated that the District had recently hired the firm of CSW/Stuber-Stroeh Engineering to perform a study of alternatives. He stated the District had attempted and failed to get 50% support for establishing an assessment district, but he was hopeful of more support since the decline in condition of septic systems in the area was bringing new interest and support for improvement.

Commissioner Slavitz asked if the purpose of the assessment district was to finance the conversion of the Playa Verde plant to a pumping station. Mr. Hannahs replied that this was correct, but there was also the cost of the two miles of sewer pipe that would be required along Paradise Drive. A cost estimate would be required. He stated there was a need for the public to become involved in establishing an assessment district rather than for Tiburon Sanitary District to try to drive the project.

Commissioner Heller asked if any other sanitary districts were close enough in proximity to assist with the problem and if the District or LAFCO staff were aware of how many other properties would be needing service in that area. The Executive Officer responded that there was a substantial area that would eventually need service, but no set number of hookups could be anticipated. He stated the closest sanitary districts would be out of range.

M/S Rodoni – Slavitz to approve Resolution 03-01, denying the proposal for "Annexation of the Lands of Keran et al. to Tiburon Sanitary District (File# 1235)" without prejudice.

Approved unanimously.

M/S Slavitz - Rodoni to approve Resolution 03-02, denying the proposal for "Annexation of the Lands of Kopstein to Tiburon Sanitary District (File# 1235)" without prejudice and to approve Resolution 03-05, approving the outside service agreement for the temporary provision of sewer service to APN 058-032-05, owned by Emanuel and Cary Kopstein.

Approved unanimously.

The Commission directed staff to set up a Policy Committee meeting for the purpose of drafting policy for reduction or waiver of fees for applications denied without prejudice.

BUSINESS ITEM(S)

The Chairperson moved item 12, Selection of Alternate Public Member to follow Commissioners' Reports and the Executive Officer's Report in order to conduct the selection interviews at the time designated on the meeting agenda.

COMMISSIONERS' REPORTS

Chairperson Blanchfield commended the conduct of the annual Strategic Planning Workshop held January 29, 2003. Commissioner Chapman stated she felt the workshop had been well planned by LAFCO staff and the workshop facilitator.

EXECUTIVE OFFICER'S REPORT

13. Progress Reports

The Executive Officer reported on the following items:

- The Strategic Plan Workshop had identified the next year's goals and objectives, which would be distributed to the Commission in the next few weeks.
- In a concurrent effort, LAFCO staff would be meeting with the Budget Committee to draft a budget for the presentation in the March agenda.
- Staff had been attending meetings for the MarinMap Steering Committee, the League of Women Voters, the West Marin Septic Management project, and the Marin Managers Association (which was discussing service consolidation, especially fire protection).

- In January, the City of San Rafael had taken action to begin drafting amendments to its General Plan which would exclude the St. Vincent's/Silveria area. LAFCO Legal Counsel had informed LAFCO staff that the Commission would not be able to rely on their services for matters involving St. Vincent's/Silveria matters since he would need to advise the County Board of Supervisors on those matters. LAFCO staff had contacted the law firm of Best, Best & Krieger which assisted the Commission before on the Novato area study. The excellence of their previous service to the Commission and their service to CALAFCO exhibited their expertise in LAFCO matters. A retainer would not be required to secure their services on an as-needed basis.

The Commission directed staff to sign and return the letter of engagement to provide services from Best, Best & Krieger.

BUSINESS ITEM(S)

12. Selection of Alternate Public Member

The Commission interviewed three candidates for the position of Alternate Public Member. The Commission asked questions pertaining to each candidate's experience, availability, perspective and priorities.

Christopher Burdick - An Inverness resident of 30 years, Mr. Burdick had been self-employed in labor law. He stated he did not have many dealings with real estate or LAFCOs, but was experienced with government practices and public services. His interest in LAFCO was to provide a service to the community and to make a contribution to local government in particular.

Christopher Lang - A Fairfax resident since 1975, Mr. Lang was a self-employed landscape contractor/gardener. He was active with the Marin County Bicycle Coalition and had served on the Fairfax Planning Commission and the Maintenance and Facilities Advisory Committee for Ross Valley School District. His interest in LAFCO was to represent the public's interest as a member of the Commission.

Sue Petersen - A Fairfax resident, Ms. Petersen was employed as Controller for the Marin Builder's Association. She had served on the Fairfax Town Council, the Fairfax Planning Commission and a project area committee studying redevelopment. Her interest in LAFCO was to represent the public interest on local government issues.

The Commission's Counsel advised that the Cortese-Knox-Hertzberg Act required appointment of public members to include not only a majority vote, but also at least one favorable vote from each of the other three categories of LAFCO membership - cities, special districts and county. The roll call resulted in a tie vote with 3 votes for Christopher Burdick and 3 votes for Sue Petersen. The Commission determined selection would need to be postponed until the March meeting when additional members would be seated to vote. The Commission directed staff to make the meeting tape available to absent LAFCO members before the next meeting.

ADJOURNMENT

M/S Slavitz - Rose to adjourn.

Approved unanimously.

The meeting was adjourned at 8:58 p.m. The next regular LAFCO meeting was scheduled for Thursday, March 13, 2003.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chairperson